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1 **ORDER REQUIRING THE RETURN OF PRIVILEGED AND/OR PROTECTED**
2 **DOCUMENTS AND INFORMATION**

3 In the interests of streamlining discovery and avoiding unnecessary conflicts
4 between the parties, and with the consent of all parties, it is hereby Ordered as follows:

5 If during the course of this case, a producing party produces a document or any
6 other piece of information, including electronically stored information, that the producing
7 party thereafter claims to be privileged or protected, the producing party will give notice
8 thereof to the receiving party in writing including a privilege log. Within 10 days, the
9 party receiving the notice will return, sequester, or destroy the documents or other pieces
10 of information pursuant to Fed.R.Civ.Pro. 26(b)(5)(B). If the receiving party has disclosed
11 the information to others before being notified of the claim of privilege or protection, the
12 retrieving party must take reasonable steps to retrieve and return or destroy the disclosed
13 information.

14 Either party may file a motion regarding the privileged status of the document(s),
15 but the party claiming the privilege bears the burden of proving the privilege. The
16 receiving party shall not make any claim that the production of the document alone
17 effected a waiver of any privilege or protection, but may make other waiver claims related
18 to the particular facts and circumstances at issue, with the document. Moreover, absent a
19 ruling that the document or information at issue is not privileged or protected, a receiving
20 party may not disclose nor make any use whatsoever of the information disclosed in or
21 derived from the document or information at issue, unless it is done pursuant to CR
22 26(b)(5)(B) or *in camera* with notice to the Court that the privileged status of the document
23 is at issue.

24 STIPULATION AND ORDER REQUIRING THE RETURN
25 OF PRIVILEGED AND/OR PROTECTED DOCUMENTS
26 AND INFORMATION- 2
(C08-0161 RAJ)

DWT 11611916v5 4900000-000905

Davis Wright Tremaine LLP
LAW OFFICES
Suite 2200 · 1201 Third Avenue
Seattle, Washington 98101-3045
(206) 622-3150 · Fax: (206) 757-7700

In the interests of effectuating this order and protecting the efficient process of discovery in this Court, the Court further rules that productions during the course of this case of materials or information claimed to be privileged or protected and sought to be reclaimed by the parties to this case under this paragraph shall not be used as grounds by any third party to argue that any waiver of privilege or protection has occurred by virtue of any production in this case.

DATED this 21st day of November, 2008.

Richard D. Jones

The Honorable Richard A. Jones
United States District Judge

STIPULATION AND ORDER REQUIRING THE RETURN
OF PRIVILEGED AND/OR PROTECTED DOCUMENTS
AND INFORMATION- 3
(C08-0161.RA)

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